

AMENDED IN ASSEMBLY SEPTEMBER 4, 2003

AMENDED IN SENATE APRIL 10, 2003

SENATE BILL

No. 730

Introduced by Senator Burton

February 21, 2003

An act to amend ~~Section 1773~~ *Sections 1773 and 1773.5* of the Labor Code, relating to prevailing wages.

LEGISLATIVE COUNSEL'S DIGEST

SB 730, as amended, Burton. Prevailing rate of per diem wages: determinations.

~~Existing~~

(1) *Existing* law generally requires the payment of the prevailing rate of per diem wages and the prevailing rate for holiday and overtime work to employees employed on public works projects that cost more than \$1,000. Existing law requires the Director of Industrial Relations to determine these wage rates and to provide these wage rates to an awarding body, as defined, that requests them.

This bill would require the director to provide these wage rates to an awarding body within 120 days of a request for the rates, and would require that any appeal of a wage rate determination be decided within 30 days of the appeal. This bill would also require the director to maintain a log, as a public record, of these determination requests and appeals, as provided.

(2) *Existing law authorizes the director to establish rules and regulations for determining the existence of public works for purposes of coverage by the prevailing wage laws.*

This bill would require the director, within a specified time period, to determine whether a specific project or type of work is, or is not, a public work under specified provisions of law that is subject to coverage under prevailing wage laws. It would require the director, within a specified time period, to decide an appeal of that determination, and would require the director to maintain a log of all requests for determination received and appeals submitted, including the dates applicable for the determination and appeal of a request.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1773 of the Labor Code is amended to
2 read:

3 1773. (a) (1) The body awarding any contract for public
4 work, or otherwise undertaking any public work, shall obtain the
5 general prevailing rate of per diem wages and the general
6 prevailing rate for holiday and overtime work in the locality in
7 which the public work is to be performed for each craft,
8 classification, or type of worker needed to execute the contract
9 from the Director of Industrial Relations. The holidays upon
10 which those rates shall be paid need not be specified by the
11 awarding body, but shall be all holidays recognized in the
12 applicable collective bargaining agreement. If the prevailing rate
13 is not based on a collectively bargained rate, the holidays upon
14 which the prevailing rate shall be paid shall be as provided in
15 Section 6700 of the Government Code.

16 (2) In determining the rates, the Director of Industrial Relations
17 shall ascertain and consider the applicable wage rates established
18 by collective bargaining agreements and the rates that may have
19 been predetermined for federal public works, within the locality
20 and in the nearest labor market area. Where the rates do not
21 constitute the rates actually prevailing in the locality, the director
22 shall obtain and consider further data from the labor organizations
23 and employers or employer associations concerned, including the
24 recognized collective bargaining representatives for the particular
25 craft, classification, or type of work involved. The rate fixed for
26 each craft, classification, or type of work shall be not less than the
27 prevailing rate paid in the craft, classification, or type of work.



(3) If the director determines that the rate of prevailing wage for any craft, classification, or type of worker is the rate established by a collective bargaining agreement, the director may adopt that rate by reference as provided for in the collective bargaining agreement and that determination shall be effective for the life of the agreement or until the director determines that another rate should be adopted.

(b) (1) When an awarding body makes a request to obtain the prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work from the director, all of the following apply:

(A) The director shall make the determination of these rates within 120 days of the request.

(B) If the determination specified in subparagraph (A) is appealed, the director shall make a decision on that appeal within 30 days of the request for the appeal.

(2) The director shall provide notice to an awarding body to acknowledge that he or she has received a request for a determination or an appeal of a determination, which notice shall include the date by which the determination or appeal will be decided.

(3) The director shall maintain a log of all requests and appeals described in paragraph (1), which log is a public record, and specifies at least all of the following:

(A) The date that the awarding body made the request or appeal.

(B) The date upon which the decision on the request or appeal should have been decided.

(C) The date upon which the decision on the request or appeal was made.

SEC. 2. Section 1773.5 of the Labor Code is amended to read:

1773.5. (a) The Director of Industrial Relations may establish rules and regulations for the purpose of carrying out this chapter, including, but not limited to, the responsibilities and duties of awarding bodies under this chapter.

(b) *The Director of Industrial Relations, within 60 days of receipt of a request for a determination, shall determine whether a specific project or type of work is, or is not, a public work under Sections 1720, 1720.2, 1720.3, 1720.4, and 1771 that is subject to coverage under prevailing wage laws. The director, within 30 days*

1 from the date of filing, shall decide an appeal of that
2 determination. The director shall issue written acknowledgement
3 of receipt of a request for a determination or an appeal, including
4 therein the date by which the determination shall be made or
5 appeal decided. The director shall maintain a log, which shall be
6 available as a public record, of all requests for determination
7 received and appeals submitted, including therein the dates
8 applicable for the determination and appeal of a request.

